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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,850	11/05/2003	Marcus A. Maxwell	9060.225	7801

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EXAMINER	
NELSON, FREDA ANN	

ART UNIT	PAPER NUMBER
3628	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/701,850	MAXWELL, MARCUS A.	
	Examiner	Art Unit	
	Freda A. Nelson	3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 July 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-22* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

The amendment received on July 23, 2007 is acknowledged and entered. Claims 1, 7, 10, 14, and 20 have been amended. No claims have been added. Claims 1-22 are currently pending.

Response to Amendment and Arguments

Applicant's arguments, see REMARKS, filed July 23, 2007, with respect to the rejection(s) of claim(s) 1-22 under 35 USC 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Sneeringer (US PG Pub. 2004/0024717).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. Claims 1-2, 5, 8, 10, 12, 14-15, 18 and 21, are rejected under 35 U.S.C. 103(a) as being unpatentable over Fallon et al. (US PG Pub. 2003/032949), in view of Sneeringer (US PG Pub. 2002/0024717).

As per Claims 1, 10, and 14, Fallon discloses a method, calculator and computer program product that estimates a cost savings attributable to use of a backup power system, comprising the following steps implemented in a data processing system: obtaining historical power status information relating to operation of the backup power system. (Figure 10; 0016; 0017; 0081; 0108; 0109).

Fallon fails to disclose the computing the estimate of cost savings from the obtained historical power status information.

Sneering discloses the data center optionally includes Uninterruptible Power Supplies (UPS), which may be implemented in multiple parallel modules, Battery Back-up systems, Automatic Transfer Switches (ATS) and/or power generator back-up, along with multiple electric circuit feeds. By way of illustration, an Uninterruptible Power Supply (UPS) is a device that provides a clean, reliable source of power to maintain systems in the event of power disturbances and/or interruptions (paragraph [0160]) Sneering further discloses that the engineer may look at the information, do analysis, and perhaps even resolve an issue without ever going to the site. The types of information that the customer may see, include, for example, the load in energy, the actual building layout/structure, historical bills, and/or a forecasting component that helps forecast the amount of energy a customer may use based upon a forecast for a given location or a given customer site (paragraph [0114]). Sneeringer still further disclose that in addition, advantageously the savings may be transferred to the customer so it has a pricing center to go to with this offering, to actually produce better quality equipment at a lower price by virtually having this

information system in place. At the same time, consumption for the electricity and gas usage of the port is also monitored and collected to understand the customers total energy needs (paragraph [0136]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Fallon to include the features of Sneeringer because informing the user of a backup power supply of the cost savings realized through the use of such a device is an excellent means to justify the purchase and maintenance of a backup power supply and provide the user with additional data concerning the operation of their backup power supply.

As per claims 2, 8, 12, 15 and 21, Fallon further discloses wherein the received historical power status information comprises at least one of a number of power failures and a duration of the power failures, wherein the power outage cost factor comprises a one-time cost factor for a single power failure and/or a cost per hour without power factor and wherein the user interface comprises a graphical user interface (GUI). (Figure 10).

As per claims 5 and 18, Fallon fails to disclose the method of claim 4 further comprising exporting the per incident savings estimate, the hourly savings estimate and/or the estimate of cost savings to a computer application. However, Eulau discloses the exporting of the estimated data to a computer application. (Figure 1; Figure 19; Col. 2, lines 10-13; Col. 3, line 40 - Col. 4, line 10). Examiner interprets exporting to include

the computation of data by a computer or Internet server and the sending of that data to another computer application (i.e. web browser).

As per claims 6 and 19, Fallon further discloses the method of Claim 4 further comprising displaying the one-time cost factor, the cost per hour factor, the number of power failures, the duration of the power failures, the per incident savings estimate, the hourly savings estimate and the estimate of cost savings on a graphical user interface (GUI) (Figure 10; 0009; 0016; 0017).

2. Claims 3-4, 9, 13, 16-17 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fallon et al. (US PG Pub. 2003/032949, in further view of Sneering (US PG Pub. 2002/0024717), still in further view of Eulau et al. (US Patent Number 6,411,910),

As per claim 3 and 16, Fallon fails to disclose the method of claim 2 further comprising: obtaining a one-time cost factor for a single power failure; and obtaining a cost per hour without power factor.

However, Eulau teaches the collection and generation of various data pertaining to the costs associated with a power loss. (Figures 5-19; Col. 2, lines 5-50; Col. 3, line 65 - Col. 4, line 10; Col. 5, line 55 - Col. 6, line 15) Examiner interprets the data collected in Eulau to include both the cost per hour and single incident cost because the collection of data includes a wide range of values that can be used to accurately compute both of these values. In fact, cost per hour values are explicitly disclosed and

the cost per incident value is merely a function of the cost per hour value. Further, Examiner interprets the total revenue and profit at risk generated by Eulau to be the same as the potential amount saved by a backup power supply. This is because the backup power supply eliminates power failures and reduces the risk to zero, thus recovering the total revenue and profit that was initially at risk.

Therefore, it would have been obvious to one of ordinary skill in the art to modify the invention of Fallon and Sneering to include the features of Eulau, because informing the user of a backup power supply of the cost savings realized through the use of such a device is an excellent means to justify the purchase and maintenance of a backup power supply and provide the user with additional data concerning the operation of their backup power supply.

As per claim 4, 9, 13, 17 and 22, Fallon shows the collection of data pertaining to power failure incidents and the duration of the power failures. Fallon further computes the total power failures and the total duration of power failures and displays these results to the user through a GUI. (Figure 10). Fallon fails to disclose calculating a per incident savings estimate based on the number of power failures and the one-time cost factor; calculating an hourly savings estimate based on the duration of the power failures and the cost per hour without power factor; and calculating the estimate of cost savings associated With the backup power system based on the calculated per incident savings estimate and the calculated hourly savings estimate. However, Eulau teaches the collection and generation of various data pertaining to the costs associated with a

power loss. (Figures 5-19; Col. 2, lines 5-50; Col. 3, line 65 - Col. 4, line 10; Col. 5, line 55 - Col. 6, line 15) Examiner interprets the data collected in Eulau to include both the cost per hour and single incident cost because the collection of data includes a wide range of values that can be used to accurately compute both of these values. Further, Examiner interprets the total revenue and profit at risk generated by Eulau to be the same as the potential amount saved by a backup power supply. This is because a backup power supply abolishes power failures and reduces the risk to zero, thus recovering the total revenue and profit that was initially at risk.

Therefore, it would have been obvious to one of ordinary skill in the art to include the features of Eulau and Sneeringer in Fallon in and multiply the values to calculate the total estimated cost savings, because informing the user of a backup power supply Of the cost savings realized through the use of such a device is an excellent means to justify the purchase and maintenance of a backup power supply and provide the user with additional data concerning the operation of their backup power supply.

As per claim 7 and 20, Fallon discloses a method and computer program product that estimates the cost savings attributable to use of a backup power system, the method comprising the following steps implemented on a data processing system: receiving historical power status information from a UPS over a communications link; (Figure 10; 0016; 0017; 0081; 0108; 0109) and displaying the estimate of cost savings on the user interface. (Figure 10; 0009; 0016; 0017)

Fallon fails to disclose accepting a power outage cost factor from a user interface and computing an estimate of cost savings based on the historical power status information and the power outage cost factor.

However, Eulau teaches the acceptance of a power outage cost factor from a user interface (Figure 13) and computing an estimate of cost savings based on the historical power status information and the power outage cost factor. (Figures 5-19; Col. 2, lines 5-50; Col. 3, line 65 - Col. 4, line 10; Col. 5, line 55 - Col. 6, line 15) Examiner interprets the data collected in Eulau to include both the cost per hour and single incident cost because the collection of data includes a wide range of values that can be used to accurately compute both of these values. Further, Examiner interprets the total revenue and profit at risk generated by Eulau to be the same as the potential amount saved by a backup power supply. This is because a backup power supply abolishes power failures and reduces the risk to zero, thus recovering the total revenue and profit that was initially at risk.

Therefore, it would have been obvious to one of ordinary skill in the art to include the features of Eulau and Sneeringer and multiply the values to calculate the total estimated cost savings, because informing the user of a backup power supply of the cost savings realized through the use of such a device is an excellent means to justify the purchase and maintenance of a backup power supply and provide the user with additional data concerning the operation of their backup power supply.

As per Claim 11, Fallon further discloses the calculator of claim 10 wherein the data processor is operatively associated with a graphical user interface (GUI) (Figure 10; 0009; 0016; 0017).

Fallon fails to disclose wherein the GUI is configured to receive the historical power status information and transmit the historical power status information to the data processor.

However, Eualau teaches wherein the GUI is configured to receive the historical power status information and transmit the historical power status information to the data processor. (Figures 5-19; Col. 2, lines 5-50; Col. 3, line 65 - Col. 4, line 10; Col. 5, line 55 - Col. 6, line 15)

Therefore, it would have been obvious to one of ordinary skill in the art to combine the calculator and GUI disclosed in Fallon with features of Sneeringer and the Eulau because informing the user of a backup power supply of the cost savings realized through the use of such a device is an excellent means to justify the purchase and maintenance of a backup power supply and provide the user with additional data concerning the operation of their backup power supply.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Freda A. Nelson whose telephone number is (571) 272-7076. The examiner can normally be reached on Monday -Wednesday and Friday, 10:00 AM -6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FAN 09/28/07

Meda Nelson

JOHN W. HAYES
SUPERVISORY PATENT EXAMINER